1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
10		
11	ERNESTO AMBRIZ,) Civil No. 10cv460 L(WMc)
12	Plaintiff,	ORDER DENYING AS MOOT MOTION TO STRIKE AND TO
13	v.) DISMISS [doc. nos. 6, 9]
14	ACCREDITED HOME LENDERS, INC., et al.,	
15	Defendants.))
16		ý e e e e e e e e e e e e e e e e e e e
17	On May 28, 2010, defendants Vericrest Financial, Inc. fka The CIT Group and The Bank	
18	of New York Melon fka The Bank of New York filed a motion to strike portions of plaintiff's	
19	complaint, and on June 2, 2010, these defendants filed a motion to dismiss the complaint.	
20	Rather than respond to defendants' motions, plaintiff filed an amended complaint on June 17,	
21	2010.	
22	An amended complaint supersedes a prior complaint as a pleading. Forsyth v. Humana,	
23	Inc., 114 F.3d 1467, 1474 (9th Cir. 1997); Hal Roach Studios, Inc. v. Richard Feiner & Co., 896	
24	F.2d 1542, 1546 (9th Cir. 1990). Accordingly, when a plaintiff elects to file an amended	
25	complaint in conformity with Federal Rule of Civil Procedure 15(a), a district court may treat an	
26	existing motion to dismiss as moot.	
27	Based on the foregoing, the Court DENIES AS MOOT defendants' motions to strike	
28	portions of the complaint [doc. #6] and to di	smiss the complaint [doc. #9]. Defendants' motions

Case 3:10-cv-00460-L-WMC Document 16 Filed 07/06/10 PageID.253 Page 1 of 2

	Case 3.10-cv-00400-L-vvivic Document 10 The 07/00/10 Fage D.234 Fage 2 012
1	to dismiss the first amended complaint [doc. # 13] and to expunge lis pendens [doc. #14] remain
2	set for hearing on August 23, 2010.
3	IT IS SO ORDERED.
4	DATED: July 6, 2010
5	M Janes Journ
6	M. James Zorenz / United States District Court Judge
7	COPY TO:
8	HON. WILLIAM MCCURINE, JR. UNITED STATES MAGISTRATE JUDGE
9	UNITED STATES MADISTRATE JUDGE
10	ALL PARTIES/COUNSEL
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	

2 10cv460